

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

3COM CORPORATION,

Plaintiff,

v.

CAPITAL 4, INC., et al.,

Defendants.

Civ. No. 07-Civ.-8707(JSR) (JDF)

**PLAINTIFF'S MOTION TO DISQUALIFY  
SIMON H. HUGHES  
AND RONALD P. GOSSETT**

Plaintiff, 3Com Corporation ("3Com") moves the Court for an order disqualifying Capital 4's former counsel, Simon H. Hughes, and Ronald P. Gossett from representing any party affiliated with the Power of \$Zero program, including but not limited to former customers of Defendant Capital 4, Inc. ("Capital 4") in connection with their depositions, which 3Com has subpoenaed in connection with this action.

In support of its Motion, 3Com relies upon his Memorandum in Support of its Motion to Disqualify Simon H. Hughes and Ronald P. Gossett and the Affidavit of Counsel in Support of Plaintiff 3Com Corporation's Motion for Contempt and for a Determination that Capital 4 has Waived Attorney-Client Privilege and in Support of Plaintiff's Motion to Disqualify Simon H. Hughes and Ronald P. Gossett, filed herewith.

As discussed more fully in the accompanying memorandum, disqualification of both lawyers is necessary under the circumstances. Hughes' solicitation of clients by defaming 3Com in violation of the Stipulated Injunction<sup>1</sup> entered in this action reveals that Hughes is unwilling to comport himself with due regard for this Court's orders and for his and his former client's agreements. In addition, Hughes' representation of former Capital 4 customers is

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<sup>1</sup> Hughes' conduct in this regard is one of the subjects of Plaintiff 3Com Corporation's Motion for Contempt and for a Determination that Capital 4 has Waived Attorney-Client Privilege.

directly adverse to Capital 4's interests within the meaning of the Texas and New York disciplinary rules. Mr. Gossett must be disqualified as well, particularly in the event that he has received work product from Hughes, which is likely given Gossett's former representation of Hughes in connection with discovery in this action.

WHEREFORE, 3Com respectfully requests that this Court grant its Motion its entirety and enter an order disqualifying Simon H. Hughes and Ronald P. Gossett from representing any party affiliated with the Power of \$Zero program, including but not limited to the deponents Comport Network Services and Solutions; Zeppelin, Inc.; Texas Network of Youth Services; Temsco, Inc.; North Central Communications; Grace Products Corporation; and Evans, Ewan & Brady Insurance Agency. 3Com respectfully requests further that the Court grant such other and further relief as justice requires.

Respectfully submitted,

/s/ Daniel E. Rosenfeld  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 9th day of May, 2008, a true and correct copy of the foregoing document was served using the Court's CM/ECF system, with electronic notification of such filing to all counsel of record.

I also certify that on this date the foregoing was served, via electronic mail and via United Parcel Service, on the following:

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/s/ Eileen E. Pott

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